UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,439	04/15/2004	Tetsuya Sawano	0649-0955P	6298

2292   7590   12/01/2008
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
HERRERA, DIEGO D

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
12/01/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

	Application No.	Applicant(s)
Office Action Summary	10/824,439	SAWANO, TETSUYA
	Examiner	Art Unit
	DIEGO HERRERA	2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>18 July 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-21</u> is/are pending in the application.

    4a) Of the above claim(s) <u>2 and 13</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,3-12 and 14-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 5/16/2008 was filed.

The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the

information disclosure statement is being considered by the examiner.

Response to Amendment

Claims 2 and 13 have been cancelled.

Claims 1, 4, 5, 12, 16, and 21 have been amended.

Response to Arguments

Applicant's arguments with respect to claims 1-21 have been considered but are

moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

Claim 21 is rejected under 35 U.S.C. 101 because these claims do not fall into one of

the statutory categories of invention recited in 35 USC § 101, see also MPEP §

2106.IV.B, in the actual body of the claim there is no indication or statement stating

what particular apparatus or transform underlying subject matter to a different state or

thing is performing, determining, providing, checking, setting, sending and representing,

hence, the claims are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3-12, and 14-21 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Needham (US 6710740 B2), and in view of Ogaki et al. (US 7065370

B2).

Regarding claim 1. Needham discloses an image processing server, comprising:

However, Needham does not discloses a communication unit that receives image data

from a mobile communication device, the image data having been sensed by the mobile

communication device, nevertheless, Ogaki et al. teaches intermediate device or unit

that receives image data from mobile communication device (Fig. 4-5, 7-8, 17, col. 3

lines: 65—col. 4 lines: 14, Ogaki et al. teaches mobile device sensing image and

reporting to unit for GPS information inter alia about the device and image). therefore, it

would have been obvious to a person of ordinary skill in the art at the time the invention

was made to specifically include a communication unit that receives image data from a

mobile communication device the image data having been sensed by the mobile

communication device, the image data having been sensed by the mobile

communication device, as taught by Ogaki et al. for the purposes of superimposing

positioning information on images among other things (abstract), one skilled in the art is

able to applied known methods and system to add specified information of the liking in

this instance adding location information and GPS information to images and/or video.

a specifier that specifies a position of the mobile communication device based on global

positioning system (GPS) information relating to a base station representing a

communication region where the image data was sensed by the mobile communication

device (abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham teaches

adding identifiers about GPS location data or information using Exif method by JEIDA,

which is also well known in the art); and

an adder that adds first position information indicative of the specified position to the

image data as attribute information of the image data (abstract, title, fig. 5, col. 2 lines:

5-30, col. 3 lines: 11-19, Needham teaches adding identifiers about GPS location data

or information using Exif method by JEIDA, which is also well known in the art); and

a database that stores GPS information for a plurality of base stations (col. 4 lines: 26-

39, Needham teaches network elements that store and use GPS information to map out

locations and other information, furthermore, it is well known in the art that satellites and

base stations locations are known in order to determined accurate mobile devices

location this information is already provided, hence, being stored on a servers or

databases in base stations, controller, MSC, or however the network has arrange

network and elements); wherein the specifier specifies the position of the mobile

communication device based on the base station related information (abstract, title, fig.

5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham teaches adding identifiers about GPS

location data or information using Exif method by JEIDA, which is also well known in the

art), the base station being used in transmitting the image data (), and the database

storing the GPS information in association with the base station related information

(abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19, col. 4 lines: 40-67, Needham

teaches having information including that of GPS information including base station

information as seen in figure 5).

Regarding claim 5. An image processing server, comprising:

a communication unit that receives image data and first global positioning system (GPS)

position information, the image data have been sensed by a mobile communication

device and the first GPS position information relating to a base station representing a

communication region where the image data was sensed by the mobile communication

device; nevertheless, Ogaki et al. teaches intermediate device or unit that receives

image data from mobile communication device of image sensed device, the image data

having been sensed by the mobile communication device, and base station sensing

region where the image data was sensed by the mobile communication device (Fig. 4-5,

7-8, 17, col. 3 lines: 65—col. 4 lines: 14, Ogaki et al. teaches mobile device sensing

image and reporting to unit for GPS information inter alia about the device and image).

therefore, it would have been obvious to a person of ordinary skill in the art at the time

the invention was made to specifically include a communication unit that receives image

data from a mobile communication device the image data having been sensed by the

mobile communication device, the image data having been sensed by the mobile

communication device, and base station sensing region where the image data was

sensed by the mobile communication device, as taught by Ogaki et al. for the purposes

of superimposing positioning information on images and including other things (abstract,

see the Ogaki reference), one skilled in the art is able to applied known methods and

system to add specified information of the liking in this instance adding location

information and GPS information to images and/or videos.

an adder that adds second position information, indicative of a position where the image

sensor in the mobile communication device sensed the image data, to the image data

sensed by the image sensor as attribute information of the image data based on the first

position information (abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham

teaches adding identifiers about GPS location data or information using Exif method by

JEIDA, which is also well known in the art); and

a database that stores GPS information for a plurality of base stations (col. 4 lines: 26-

39, Needham teaches network elements that store and use GPS information to map out

locations and other information, furthermore, it is well known in the art that satellites and

base stations locations are known in order to determined accurate mobile devices

location this information is already provided, hence, being stored on a servers or

databases in base stations, controller, MSC, or however the network has arrange

network and elements); wherein the specifier specifies the position of the mobile

communication device based on the base station related information (abstract, title, fig.

5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham teaches adding identifiers about GPS

location data or information using Exif method by JEIDA, which is also well known in the

art), the base station being used in transmitting the image data (), and the database

storing the GPS information in association with the base station related information
(abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19, col. 4 lines: 40-67, Needham
teaches having information including that of GPS information including base station
information as seen in figure 5).

Regarding claim 12. An image processing server, comprising:

However, Needham does not discloses a communication unit that receives image data
from a mobile communication device the image data having been sensed by the mobile
communication device, nevertheless, Ogaki et al. teaches intermediate device or unit
that receives image data from mobile communication device (Fig. 4-5, 7-8, 17, col. 3
lines: 65—col. 4 lines: 14, Ogaki et al. teaches mobile device sensing image and
reporting to unit for GPS information inter alia about the device and image). therefore, it
would have been obvious to a person of ordinary skill in the art at the time the invention
was made to specifically include a communication unit that receives image data from a
mobile communication device the image data having been sensed by the mobile
communication device, as taught by Ogaki et al. for the purposes of superimposing
positioning information on images among other things (abstract), one skilled in the art is
able to applied known methods and system to adder specified information of the liking in
this instance adding location information and GPS information.

a specifier that specifies a position of the mobile communication device based on global
positioning system (GPS) information relating to a base station representing a
communication region where the image data was sensed by the mobile communication
device (abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham teaches

adding identifiers about GPS location data or information using Exif method by JEIDA,

which is also well known in the art); and

an adder that adds first position information indicative of the specified position to the

image data as attribute information of the image data (abstract, title, fig. 5, col. 2 lines:

5-30, col. 3 lines: 11-19, Needham teaches adding identifiers about GPS location data

or information using Exif method by JEIDA, which is also well known in the art); and

a database that stores GPS information for a plurality of base stations (col. 4 lines: 26-

39, Needham teaches network elements that store and use GPS information to map out

locations and other information, furthermore, it is well known in the art that satellites and

base stations locations are known in order to determined accurate mobile devices

location this information is already provided, hence, being stored on a servers or

databases in base stations, controller, MSC, or however the network has arrange

network and elements); wherein the specifier specifies the position of the mobile

communication device based on the base station related information (abstract, title, fig.

5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham teaches adding identifiers about GPS

location data or information using Exif method by JEIDA, which is also well known in the

art), the base station being used in transmitting the image data (), and the database

storing the GPS information in association with the base station related information

(abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19, col. 4 lines: 40-67, Needham

teaches having information including that of GPS information including base station

information as seen in figure 5).

Regarding claim 16. An image processing server, comprising:

means for receiving image data and first global positioning system (GPS) position

information, the image data having been sensed by a mobile communication device and

the first GPS position information relating to a base station representing a

communication region where the image data was sensed by the mobile communication

device; nevertheless, Ogaki et al. teaches intermediate device or unit that receives

image data from mobile communication device of image sensed device, the image data

having been sensed by the mobile communication device, and base station sensing

region where the image data was sensed by the mobile communication device (Fig. 4-5,

7-8, 17, col. 3 lines: 65—col. 4 lines: 14, Ogaki et al. teaches mobile device sensing

image and reporting to unit for GPS information inter alia about the device and image).

therefore, it would have been obvious to a person of ordinary skill in the art at the time

the invention was made to specifically include a communication unit that receives image

data from a mobile communication device the image data having been sensed by the

mobile communication device, the image data having been sensed by the mobile

communication device, and base station sensing region where the image data was

sensed by the mobile communication device, as taught by Ogaki et al. for the purposes

of superimposing positioning information on images and including other things (abstract,

see the Ogaki reference), one skilled in the art is able to applied known methods and

system to add specified information of the liking in this instance adding location

information and GPS information to images and/or videos; and

means for adding second position information (abstract, title, fig. 5, col. 2 lines: 5-30,

col. 3 lines: 11-19, Needham teaches adding identifiers about GPS location data or

information using Exif method by JEIDA, which is also well known in the art), indicative

of a position where an image sensor in the mobile communication device sensed the

image data, to the image data sensed by the image sensor as attribute information of

the image data based on the first position information (abstract, title, fig. 5, col. 2 lines:

5-30, col. 3 lines: 11-19, Needham teaches adding identifiers about GPS location data

or information using Exif method by JEIDA, which is also well known in the art); and

a database that stores GPS information for a plurality of base stations (col. 4 lines: 26-

39, Needham teaches network elements that store and use GPS information to map out

locations and other information, furthermore, it is well known in the art that satellites and

base stations locations are known in order to determined accurate mobile devices

location this information is already provided, hence, being stored on a servers or

databases in base stations, controller, MSC, or however the network has arrange

network and elements); wherein the specifier specifies the position of the mobile

communication device based on the base station related information (abstract, title, fig.

5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham teaches adding identifiers about GPS

location data or information using Exif method by JEIDA, which is also well known in the

art), the base station being used in transmitting the image data (col. 4 lines: 26-39,

Needham teaches network elements that store and use GPS information to map out

locations and other information, furthermore, it is well known in the art that satellites and

base stations locations are known in order to determined accurate mobile devices

location this information is already provided, hence, being stored on a servers or

databases in base stations, controller, MSC, or however the network has arrange

network and elements), and the database storing the GPS information in association

with the base station related information (abstract, title, fig. 5, col. 2 lines: 5-30, col. 3

lines: 11-19, col. 4 lines: 40-67, Needham teaches having information including that of

GPS information including base station information as seen in figure 5).

Regarding claim 21. Needham discloses a method of providing location information to

image date, however, Needham does not discloses the location information indicative of

the location where the image data was sensed; nonetheless, Ogaki et al. teaches

having mobile device having image sensing device (Fig. 4-5, 7-8, 17, col. 3 lines: 65—

col. 4 lines: 14, Ogaki et al. teaches mobile device sensing image and reporting to unit

for GPS information inter alia about the device and image), therefore, it would have

been obvious to a person of ordinary skill in the art to combine image sensed with

information about location image was sensed by device, as taught by Ogaki et al. one

would be motivated to combine location indicia and superimpose it to an image sensed

by an apparatus for providing location information and among other things to the user of

apparatus elements discuss in the reference of Ogaki et al teach methods and systems

involve among other things on how to accomplish capturing images along with the

combination of Needham of acquiring location of apparatus, comprising:

receiving a message from a mobile communication device, the message including

image data sensed by the mobile communication device (Fig. 4-5, 7-8, 17, col. 3 lines:

65—col. 4 lines: 14, Ogaki et al. teaches mobile device sensing image and reporting to

unit for GPS information inter alia about the device and image);

specifying a base station used to transmit the received message (col. 6 lines: 11-18, col.

8 lines: 25-34, Ogaki et al. teaches at least GPS information and place name as shown

in figures 3, 10b);

acquiring location information associated with the specified base station from a

database for storing GPS information for a plurality of base stations (abstract, title, fig.

5, col. 2 lines: 5-30, col. 3 lines: 11-19, col. 4 lines: 40-67, Needham teaches having

information including that of GPS information including base station information as seen

in figure 5); and

adding the acquired location information to the received image data as attribute

information (abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham teaches

adding identifiers about GPS location data or information using Exif method by JEIDA,

which is also well known in the art).

Consider claim 3. The image processing server of claim 1, wherein the first position

information includes at least one of GPS information, address information and a place

name (col. 6 lines: 11-18, col. 8 lines: 25-34, Ogaki et al. teaches at least GPS

information and place name as shown in figures 3, 10b).

Consider claim 4. The image processing server of claim 1, wherein the base station

related information includes a base station number of the base station (col. 6 lines: 11-

18, Ogaki et al. teaches at least one or both of GPS and/or base station ID discloses on

display, see fig. 3).

Consider claim 6. The image processing server of claim 5, wherein the first position

information includes at least one of GPS information, address information and a place

name (col. 6 lines: 11-18, col. 8 lines: 25-34, Ogaki et al. teaches at least GPS

information and place name as shown in figures 3, 10b).

Consider claim 7. The image processing server of claim 5, wherein the second position

information includes at least one of a base station number and a place name, obtained

from a base station (col. 6 lines: 11-18, Ogaki et al. teaches at least one or both of GPS

and/or base station ID discloses on display, see fig. 3).

Consider claim 8. The image processing server of claim 1, wherein the adder adds the

first position information to an exchangeable information file (Exif) tag of the image data

(abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham teaches adding

identifiers about GPS location data or information using Exif method by JEIDA, which is

also well known in the art).

Consider claim 9. The image processing server of claim 5 wherein the adder adds the

second position information to an exchangeable information file (Exit) tag of the image

data (abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham teaches

adding identifiers about GPS location data or information using Exif method by JEIDA,

which is also well known in the art).

Consider claim 10. The image processing server of claim 8, further comprising:

an adder that adds the Exif tag to the image data if the image data received from the

mobile communication device does not include an Exif tag (abstract, title, fig. 5, col. 2

lines: 5-30, col. 3 lines: 11-19, Needham teaches adding identifiers about GPS location

data or information using Exif method by JEIDA, which is also well known in the art).

Consider claim 11. The image processing server of claim 9, further comprising:

an adder that adds the Exif tag to the image data if the image data received from the mobile communication device does not include an Exif tag (abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham teaches adding identifiers about GPS location data or information using Exif method by JEIDA, which is also well known in the art).

13. (Canceled)

Consider claim 14. The image processing server of claim 12, wherein the first position information includes at least one of GPS information, address information and a place name (col. 6 lines: 11-18, col. 8 lines: 25-34, Ogaki et al. teaches at least GPS information and place name as shown in figures 3, 10b).

Consider claim 15. The image processing server of claim 12, wherein the base station related information includes a base station number of the base station (col. 6 lines: 11-18, Ogaki et al. teaches at least one or both of GPS and/or base station ID discloses on display, see fig. 3).

Consider claim 17. The image processing server of claim 16, wherein the second position information includes at least one of GPS information, address information and a place name (col. 6 lines: 11-18, col. 8 lines: 25-34, Ogaki et al. teaches at least GPS information and place name as shown in figures 3, 10b).

Consider claim 18. The image processing server of claim 16, wherein the first position information includes at least one of a base station number and a place name, obtained from a base station (col. 6 lines: 11-18, Ogaki et al. teaches at least one or both of GPS and/or base station ID discloses on display, see fig. 3).

Consider claim 19. The image processing server of claim 12, wherein the means for

adding adds the first position information to an exchangeable information file (Exif) tag

of the image data (abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19, Needham

teaches adding identifiers about GPS location data or information using Exif method by

JEIDA, which is also well known in the art).

Consider claim 20. The image processing server of claim 16, wherein the means for

adding adds the second position information to an exchangeable information file (Exit)

tag of the image data (abstract, title, fig. 5, col. 2 lines: 5-30, col. 3 lines: 11-19,

Needham teaches adding identifiers about GPS location data or information using Exif

method by JEIDA, which is also well known in the art).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIEGO HERRERA whose telephone number is (571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Herrera/
Examiner, Art Unit 2617

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617